



Ministero dello Sviluppo Economico

Istituto Superiore delle Comunicazioni e delle Tecnologie dell'Informazione

Italian Comments on the Draft New ICANN Bylaws

Italy appreciates the opportunity to provide comments on Draft New ICANN Bylaws and would like to thank all the people involved in the process.

Please find below our comments.

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Draft Bylaws Article 1 – Section 1.2 (b) (ii)

Text from the Bylaws: *Seeking and supporting broad, informed participation reflecting the functional, geographic, and cultural diversity of the Internet.*

During the negotiations, maybe by mistake, the gender diversity was forgotten.

In line with the principles expressed in the Agenda 2030 for Sustainable Development that all the UN Member States agreed on, we would suggest to make up the mistake and modify the bylaws as follows:

*“Seeking and supporting broad, informed participation reflecting the functional, geographic, **cultural and gender** diversity of the Internet.”*

Draft Bylaws Article 3 – Section 3.6 (d)

Regarding the “GAC consensus Board Resolution” we believe that the definition of “material factor” is a pretty vague definition and could have many nuances.

For that reason, we think the Board should be required to motivate the material aspects. The Board should not only “indicate” if it was material or not, but should motivate how it was material.

For that reason we suggest the following amendment:

*“the Board shall make a determination whether the GAC Consensus Advice was a material factor in the Board’s adoption of such resolution, in which case the Board shall so indicate **and clearly motivate** in such resolution”*

Draft Bylaws Article 12 – Section 12.2 (x)

Text from the Bylaws: *Any Governmental Advisory Committee advice approved by a full Governmental Advisory Committee consensus, understood to mean the practice of adopting decisions by general agreement in the absence of any formal objection (“GAC Consensus Advice”), may only be rejected by a vote of 60% of the Board, and the Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The Governmental Advisory Committee will state whether any advice it gives to the Board is GAC Consensus Advice.*

Italy many times expressed concerns about the role of the GAC in the new framework. In particular, we reaffirm our position that that the GAC should retain its current influence.

We believe that the commitment of the Board and the GAC to find a mutually acceptable solution should apply not only to the full GAC Consensus Advice (as defined in Section 12.2(a)(x)), but to every GAC advice, no matter which GAC decision making process is at its basis. The Board must continue to duly take into account and ensure that due deference is made to any GAC advice. We believe that it should be up to the GAC to determine what constitutes consensus-based advice.

Since this was a very controversial issue, **we would prefer to delete the explicit definition** of a full GAC Consensus Advice in the ICANN Bylaws and leave it to the GAC operating principles.

Proposed amendment: Any Governmental Advisory Committee advice approved by a Governmental Advisory Committee consensus, may only be rejected by a vote of 60% of the Board, and the Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution. The Governmental Advisory Committee will state whether any advice it gives to the Board is GAC Consensus Advice.

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Yours sincerely,

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ITALY